

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



April 9, 2003

Regulation Packages #0501-11 and 0103-03

CDSS MANUAL LETTER NO. OPS-03-01

TO: HOLDERS OF THE OPERATIONS MANUAL, DIVISION 11

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/Operations_619.htm.

Regulation Package #0501-11**Effective 2/13/03****Sections 11-400, 11-402, 11-403, 11-404, 11-405 and 11-406**

Currently, in accordance with Welfare and Institutions Code Section 11466.21, all group home and foster family agencies are required to submit independent financial audits as a condition of receiving an annual rate. Previously, CDSS policy determined that group home and foster family agency providers were vendors and not subrecipients of federal funds, in which CDSS regulations required the financial audit be conducted according to the Government Auditing Standards of the Comptroller General of the United States, commonly known as the Yellow Book. This audit standard is less in scope than the audit standard required for subrecipients expending combined federal funds of \$300,000 and greater.

In a letter dated April 3, 2001 from the DHHS, Administration for Children and Families (ACF), the CDSS was notified that group home and foster family agency providers are not vendors and instead, are subrecipients of federal funds. As subrecipients of federal funds, federal regulations require group home and foster family agency providers to comply with the federal OMB Circular A-133 audit requirements. Existing CDSS regulations only require that group home and foster family agency providers obtain a Yellow Book audit and permits these providers to have audits conducted according to the standards established by the federal OMB Circular A-133, either voluntarily or to meet the requirements of other government agencies.

In an April 19, 2001 letter from DHHS, ACF, the CDSS was informed that the type of audit California has required under Welfare and Institutions Code Section 11466.21 does not meet the federal audit standard as required under federal OMB Circular A-133. Accordingly, all federal Foster Care Program funding received by California group homes and foster family agencies is at serious risk. In addition, California's current audit and operational costs under Welfare and Institutions Code Section 11466.21 would not be allowable for federal claiming purposes.

Significant changes in these regulations include: 1) the requirement that all group home and foster family agency corporations who expend \$300,000 or more in combined federal funding in any year adhere to the audit standards contained in OMB Circular A-133; 2) the requirement for the CDSS to issue written management decisions regarding the findings in the providers' OMB Circular A-133 audit reports; 3) the establishment of an appeal process for disputed management decisions concerning disallowed costs; and 4) the creation of a rate reestablishment process for foster family agencies.

These regulations were adopted on February 13, 2003 and were considered at the Department's public hearings held on January 15 and 16, 2002.

Section 11-402

A sentence in ORD #0501-11 (Foster Care Financial Audit Requirements; OAL File #02-1202-07S), Section 11-402.222(a) regarding Social Work Activities Weightings was to be removed from the regulations as a result of public comments. However, it was inadvertently left in. The attached regulations are taking this sentence out.

Since these regulations were nonsubstantive, they did not require a public hearing.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Operations Manual regulation changes was OPS-01-02.

<u>Page(s)</u>	<u>Replace(s)</u>
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44.1 and 44.2	Pages 44.1 and 44.2
45 and 46	Pages 45 and 46
49	Page 49
51 through 54	Pages 51 through 54
57 and 58	Pages 57 and 58
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125 through 128	Pages 125 through 128
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139 and 140	Pages 139 and 140
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Attachments

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- e. (1) Eligible Hour - The unit of time which shall be subject to the allocation requirements contained in the August 30th Report, Page 5 (See Handbook Example following Section 11-402.211(a)(5)), in CCS, social work activities, or mental health treatment services which may be weighted to determine points. The following shall not meet the criteria of an eligible hour:
- (A) Any on-call hours for any personnel.
 - (B) Any hour of service provided by an employee in direct contact with a child that is not child care and supervision, social work activities, or mental health treatment services.
- (2) Emergency Placement - The placement of a child placed prior to determination that the child qualifies as an assessed/qualified child where placement is in a certified group home program classified at RCL 13 or RCL 14. The child must be evaluated by a mental health professional as described in Section 11-40m.(3).
- f. (1) Fail to Maintain - An unplanned group home program modification which decreases the level of care and services associated with the RCL upon which the rate was established.
- (2) Family Group - means no more than six children, under the age of six years, and the houseparents.
- (3) Family Home shall be defined in accordance with Section 45-101(f)(1).

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The term family home is defined in Section 45-101(f)(1) as follows: Family Home - the family residence of a licensee in which 24-hour care and supervision are provided for children and which is licensed by the appropriate community care licensing agency or a family residence which is approved and which provides care and supervision. For rate setting purposes, the term family home shall include homes licensed as foster family homes, or small family homes and homes which are approved. See Section 45-101(a)(2) for definition of approved home.

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- (4) Financial Audit - An audit by a certified public accountant or a state-licensed public accountant that includes all the programs, activities, and cost data of a non-profit corporation which operates a group home and/or foster family agency which provides treatment services. Submission of the financial audit report is a condition of receiving a group home program rate and/or a foster family agency treatment rate.

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- (5) Financial Audit Report - A written report which contains an opinion on the corporation's internal controls and which states whether, in all material respects, the most recent financial statements are presented fairly in accordance with generally accepted accounting principles. See Section 11-405.2 for additional requirements.
- (6) First-line Supervisor - A group home employee responsible for the direct supervision of child care workers. This includes residential counselors, program specialists, nurses, and other supervisory staff, regardless of title, where there is documentation of direct supervision of child care workers.
- (7) Fiscal Audit - An audit conducted to determine whether the cost data and other financial information submitted by a group home or foster family agency is accurate and supported and to determine whether misuse or fraud has occurred.
- (8) Fiscal Year - the state fiscal year which begins July 1 and ends June 30 of the following year, unless otherwise specified.
- (9) Formal Education - Completed college credits from an accredited or approved college or university.
- (10) Formal Hearing - (A) An administrative hearing conducted by an Administrative Law Judge to review a Report of Findings of an informal level hearing officer of audit findings disputed by a group home provider, foster family agency, or the Department; or (B) An administrative hearing to review the contention of a group home provider or foster family agency that does not concur with a rate setting protest decision letter pursuant to Sections 11-430.4 through 11-430.74; or (C) An administrative hearing conducted by an Administrative Law Judge to review a Statement of Disputed Audit Findings filed by a group home provider to protest the reduction of a provisional rate as a result of a program audit.
- (11) Foster Family Agency shall be defined in accordance with Section 45-101(f)(6).

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The term foster family agency is defined in Section 45-101(f)(6) as follows: Foster family agency means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

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- (12) Foster Family Agency Basic Rate - the minimum rate that a foster family agency is required to pay to the certified foster parents on behalf of an AFDC-FC eligible child exclusive of any additional increment.
- (13) Fraud – Fraud is an intentional misrepresentation or concealment of information in order to acquire something of value. Fraud includes the intentional false reporting of financial information or illegal acts resulting in material misstatements to the non-profit corporation's financial statements. Fraud also includes the misappropriation of assets by means of deception, theft, embezzlement, or material misrepresentation, which results in the illegal expenditure of funds.
- (14) Frozen Rate - A cost-based rate set by the Department prior to July 1, 1990 based on a program's actual historical costs which is greater than the standard rate for the group home program's rate classification level (RCL) on July 1, 1990.
- (15) Full-time Equivalent - A total of 40 hours for one week or a total of 173 hours for one month.
- g. (1) Good Cause - The inability to respond to a required action due to circumstances beyond the control of the group home provider/foster family agency including, but not limited to, natural disasters and emergency medical situations.
- (2) Group home shall be defined in accordance with Welfare and Institutions Code Section 11400(h) and also includes a Community Treatment Facility for purposes of Division 11.

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- (A) The term group home is defined in Welfare and Institutions Code Section 11400(h) as follows:

"'Group Home' means a nondetention privately operated residential home, organized and operated on a nonprofit basis only, of any capacity, that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code."

- 1. Health and Safety Code Section 1502(a)(1) states: "'Residential facility' means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual."

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- (3) Group Home Administrator Certificate - A certificate of completion of a group home administrator certification program to be developed by Community Care Licensing (CCL) pursuant to Health and Safety Code Section 1522.41(b)(1).
 - (4) Repealed by Manual Letter No. OPS 99-05, effective 12/10/99.
- h.
 - (1) Host County - The county in which the majority of an agency's foster family homes or group home facilities are located. If the program has facilities in more than one county, the host county shall be that of the facility where the greatest number of children are placed.
 - (2) Houseparent - means the consistent, nurturing adult who resides with the family group, provides daily care for no more than three children, and is involved in the long-range planning for those children during the group home placement, and who meets the personnel requirements stated in Title 22, Division 6, Section 84265(d), (e), (f), (h)(1), (2), and (3)(A) and who meets the Community Care Licensing requirements for a child care worker pursuant to Section 11-400c.(5).
 - (3) Houseparent Duties - means: (1) teaching social skills, (2) teaching motor skills, (3) teaching self-care skills, and (4) other child care worker duties as defined in Section 11-400(c)(4).
- i.
 - (1) Infant Supplement - the amount paid to an eligible facility in addition to the AFDC-FC payment for a minor parent for a child living with his/her minor parent(s).
 - (2) Informal Hearing - An administrative review hearing conducted by a hearing officer to examine group home program audit findings disputed by the group home provider in a Statement of Disputed Audit Findings pursuant to Sections 11-430.12 through 11-430.146.

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- (2) Mental Health Clinical Hour - The unit of time for the provision of direct contact mental health treatment services, consisting of 50 minutes of time with the child and ten minutes of preparation.
- (3) Mental Health Professional - An individual who is licensed, certified, registered, waived or otherwise recognized or authorized under State law pursuant to CDMH's Title 9, Chapter 11, Medi-Cal Specialty Mental Health Services, Subchapter 1, Article 2, to provide mental health treatment services, including but not limited to interns and those referenced in Section 1810.223, California Code of Regulations.

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Title 9, Division 1, Chapter 11, Medi-Cal Specialty Mental Health Services, Subchapter 1, Article 2, Section 1810.223, Licensed Mental Health Professional, California Code of Regulations states:

"Licensed mental health professional means licensed physicians, licensed clinical psychologists, licensed clinical social workers, licensed marriage, family and child counselors, registered nurses, licensed vocational nurses, and licensed psychiatric technicians."

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- (4) Management Decision - The evaluation by the Department of a provider's financial audit report, cost data, or other information or documentation as described in OMB Circular A-133 Subsection .405. (Continued)
- (5) Mental Health Treatment Services - One of the three program components of the standardized rate setting system. These services include the evaluation, treatment, and psychometric testing performed by a mental health professional while together with the child. Also included are day treatment programs which are certified by the State Department of Mental Health.
- (6) Misuse - Misuse is the unauthorized acquisition, use, or disposition of assets for the personal benefit of any individual or individuals that has a material effect on the financial statements. Misuse also includes the use of AFDC-FC funds for purposes that are not permissible as specified in Section 11-404, which provides guidelines on the appropriate use of State and Federal Foster Care funds.

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Welfare and Institutions Code Section 11466.22(d)(1) provides the following:

"(1) Overpayments shall be determined by either a group home provider audit or a group home provider self-reporting an overpayment."

Welfare and Institutions Code Section 11466.22(d)(2) provides the following definition of the term "sustained overpayment" after an audit has identified an overpayment:

"(2) If an informal hearing is not requested, or on the 60th day after an informal decision if a provider or the department does not file a notice of intent to file a formal appeal, or on the 30th day following a formal appeal hearing decision, whichever is latest, a group home provider overpayment shall be sustained for collection purposes and the department shall issue a demand letter for repayment of the sustained overpayment."

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- p. (1) Paid-awake - The hours in which staff are awake and reimbursed in a manner consistent with the Department of Industrial Relations.
- (2) Party - the group home provider, foster family agency, or the Department.
- (3) Placement Agency - shall be defined in accordance with Section 45-101(p)(4).

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The term placement agency is defined in Section 45-101(p)(4) as follows: Placement Agency means the agency with responsibility for placement and care of an AFDC-FC eligible child.

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- (4) Point(s) - The number calculated by the hours of service per child per month weighted by education, experience, training and/or professional level of the individual providing the service and divided by the greater of 90 percent of the group home program's licensed capacity or by 5.4, as provided for in the program classification methodology. Effective July 1, 2002, for Community Treatment Facilities that have been granted a waiver in accordance with Section 11-402.233(b), the weighted hours shall be divided by the occupancy factor specified in the waiver.
- (5) Primary Placing County - The county(ies) which places the greatest percentage of children in the group home program.
- (6) Program - A provider's unique combination of services to a specific population of children in one or more licensed group home facility(ies) as described in the program statement.

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- (7) Program Change - Any alteration to an existing program planned by a provider to a group home that may affect, in any way, the RCL, the AFDC-FC rate, or the type of children in placement.
- (8) Program Classification - The computed RCL.
- (9) Provider - A group home provider is a licensee of one or more group homes, as defined in Section 11466.22(b) of the Welfare and Institutions Code, that receives foster care maintenance payments under the AFDC-FC program.

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Section 11466.22(b) of the Welfare and Institutions Code Section provides the following definition of the term "provider":

"(b) For the purposes of this section, a group home provider is a licensee of one or more group homes, as defined in subdivision (h) of Section 11400, receiving foster care maintenance payments under the AFDC-FC program. The department may collect a sustained overpayment from the party responsible for the sustained overpayment, regardless of whether the party remains in the business of providing group home programs, and regardless of whether the party remains licensed by the department."

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- (10) Provisional Rate - A temporary rate established for no longer than 13 months for a new or existing provider requesting a rate for a new program or an existing provider requesting an RCL increase. The provisional rate is based on the RCL that the group home projects it will provide, and upon which the Department sets the rate, until the Department issues an audit report which establishes the actual RCL.
- q. (Reserved)
- r. (1) Rate Classification Level (RCL) - The rate category for a program whose calculated points fall into a specified point range.
- (2) Rate Payment Offset - An involuntary collection procedure for recovering a sustained overpayment or a self-reported overpayment in a rate application from a group home provider and/or foster family agency who does not enter into a repayment agreement with the Department or a group home provider and/or foster family agency who has three outstanding payments on a repayment agreement prior to the sustained overpayment being repaid.

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- (3) RCL Reduction – A reduction to a group home provider’s previously approved RCL resulting from: (A) a voluntary program change application in which the provider requests an RCL decrease; (B) a provisional rate program audit in which the group home failed to maintain the approved RCL for the specified audit period; or (C) a nonprovisional program audit in which the provider either failed corrective action or did not provide corrective action as described in Section 11-402.55.
- (4) Real Property - Real estate; land and everything more or less attached to it.
- (5) Reasonableness Adjustment - Adjustments made to costs reported by a group home provider which are based on reasonableness limits, as specified in Section 11-402.828, for salary, shelter, and vehicle costs.
- (6) Repayment Agreement - Shall be defined in accordance with Section 11466.22(d)(3) of the Welfare and Institutions Code.

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Welfare and Institutions Code Section 11466.22(d)(3) states the following:

"The department shall establish a voluntary repayment agreement procedure with a maximum repayment period of nine years. The procedure shall take into account the amount of the overpayment, projected annual income, of the program that caused the overpayment, a minimum repayment amount, including principal and interest, of 3 percent of annual income prorated on a monthly basis, simple interest for the first seven years of the voluntary repayment agreement on the overpayment amount based on the Surplus Money Investment Fund, and simple interest for the eighth and ninth years of the voluntary repayment agreement based on the prime rate at that time plus 3 percent. The department may adopt regulations permitting the director, at his or her discretion, to renegotiate the volunteer repayment agreement if the director determines that the agreement would cause severe harm to children in placement."

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- (7) Residential Child Care Experience - Prior experience in providing direct child care worker duties or houseparent duties to children residing in out-of-home care, including first-line supervision of child care workers or houseparents.

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- (A) Qualifying experience shall include direct child care or direct supervision of child care workers at the group home program for which a rate is being requested and prior employment experience with direct responsibility caring for children or directly supervising child care workers in other group homes, county receiving home/shelters, youth authority camps and facilities, county juvenile halls and camps, juvenile detention facilities, public and/or private mental health day treatment programs, or as a licensed or certified foster parent.
 - (B) Qualifying experience shall include child care worker duties in nonresidential settings such as a teacher of specialized education, a juvenile probation officer, or a child protective services worker.
 - (C) Qualifying experience shall include experience in child day care, residential adult drug and alcohol treatment programs, or mental health treatment programs when stated in the program statement that the specified population of children to be served by the program requires this experience.
 - (D) For group home programs serving children under six qualifying experience for a houseparent shall include direct work experience in a licensed infant care center, group child care program or group residential care for children under six years of age.
- s. (1) Seriously Emotionally Disturbed (SED) shall be defined as in Welfare and Institutions Code Section 5600.3(a)(2).

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Welfare and Institutions Code Section 5600.3(a)(2) states:

"(a)(2) For the purposes of this part, 'seriously emotionally disturbed children or adolescents' means minors under the age of 18 years who have a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder, which results in behavior inappropriate to the child's age according to expected developmental norms. Members of this target population shall meet one or more of the following criteria:

- (A) As a result of the mental disorder the child has substantial impairment in at least two of the following areas: self-care, school functioning, family relationships, or ability to function in the community; and either of the following occur:
 - (i) The child is at risk of removal from home or has already been removed from the home.

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- (3) Transitional Housing Placement Program - an independent living training program for youth as specified in Welfare and Institutions Code Section 16522.

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The term transitional housing placement program is defined in Welfare and Institutions Code Sections 16522(a), (b) and (c) as follows:

"The State Department of Social Services shall develop programs in three counties upon the request of the county board of supervisors, to licensed private, nonprofit, or county operated facilities to provide transitional housing placement program services to persons at least 17 years old, and not more than 18 years old unless they satisfy the requirements of Section 11403, who are in out-of-home placement under the supervision of the County Department of Social Services or the County Probation Department, and who are participating in an independent living program. Transitional housing placement program services shall include any of the following:

- (a) Programs in which one or more participants in the program live in an apartment with an adult employee of the licensee.
- (b) Programs in which a participant lives independently in an apartment rented or leased by the licensee located in a building in which one or more adult employees of the licensee reside and provide supervision.
- (c) Programs in which a participant lives independently in an apartment rented or leased by a licensee under the supervision of the licensee if the State Department of Social Services provides approval."

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- u. (1) Underpayment - An amount owed to a group home provider by the Department.
- (2) Repealed by Manual Letter No. OPS-99-05, effective 12/10/99.
- v. (Reserved)
- w. (1) Weighting/Weighted - The factor applied to the eligible hours in each of the three program components to determine the number of points.

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x. (Reserved)

y. (Reserved)

z. (Reserved)

NOTE: Authority cited: Sections 10553, 10554, 11460(b), 11462(i) and (j), 11462.06, 11466.1, 11466.21, 11466.22, 11466.5, and 14680, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23. Reference: Sections 1200, 1250, 1502(a)(1) and (a)(8), 1502.4, 1502.4(a)(1), (a)(2)(A), and (b), and 1530.8, Health and Safety Code; Section 3353, California Labor Code; Sections 4096, 4096(e)(2), 4096.5, 5600.3(a)(2), 5777, 5778, 10852, 11226, 11228, 11230, 11231, 11232, 11233, 11234, 11235, 11236, 11400(h), 11402.5(a), 11460, 11461.1, 11462, 11462(a)(1), 11462.01(a)(2)(A)(i) and (ii), 11462.01(a)(2)(B)(i), 11462.03, 11466.1, 11466.2, 11466.21, 11466.22, 11466.3, 11466.31, 11466.33, 11466.34, 11467.1 (Assembly Bill 1197, Chapter 1088, Statutes of 1993), 11468, 11468.6, 14680, 16522(a), (b), and (c), and 18350, Welfare and Institutions Code; Public Laws 98-502 and 104-156; Assembly Bill 1575, Chapter 728, Statutes of 1997; The Classification of Group Home Program Under the Standardized Schedule of Rate System Report, August 30, 1989, and Title 8, California Code of Regulations, Section 11050; and federal Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; *Government Auditing Standards* of the Comptroller General of the United States (Yellow Book) 1994 Revision, including Amendment No. 1 (May 1999) and Amendment No. 2 (July 1999) Section 4.25 and 4.26; and Department of Health and Human Services, Administration for Children and Families letters dated April 19, 2001, February 22, 2002 and May 7, 2002; American Institute of Certified Public Accountants Statement on Auditing Standards Number 82, Description and Characteristics of Fraud.

11-402 GROUP HOME RATE SETTING (Continued)**11-402**

- (7) For those group home programs classified at RCL 13 or RCL 14 to receive an additional weighting of 0.10 for each eligible hour of Childcare and Supervision (CCS), there shall be two options. In addition to qualifying by providing an average of 40 or more hours of ongoing training per childcare employee, the requirement for receiving the additional weighting shall be met if the childcare and first line childcare supervisory staff is trained in the management of assaultive behavior, and all the following conditions are met:
- (A) The training must be at least 14 hours in length;
 - (B) The training must be conducted by a professional organization or someone trained and currently certificated by a professional organization as a qualified instructor, and approved by the Department;
 - (C) The entire childcare and CCS staff must complete the training and remain certified and the certifications must be current; and
 - (D) Documentation necessary to verify training as described in Section 11-400t.(1) and documentation that the requirements of Section 11-402.221(e)(7) have been met shall be maintained. In addition, if a provider chooses to claim additional points for training and selects this option, in lieu of submitting a training plan the provider shall submit the name of the professional organization providing the training, when it will be scheduled and the names of childcare staff the provider has scheduled to attend.
- (8) For provisional rate audits, the training weighting, if claimed, shall automatically be added to the weightings of all child care workers employed during the audit period.

.222 Social Work Activities Weightings

- (a) Each social worker that meets the definition in Section 11-400s.(5), shall have a base factor of 1.0 for each eligible hour. Weightings shall be given to each eligible hour of social work activity based on the professional level of each social worker as specified in the August 30th Report, page 3.

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The August 30th Report states in part:

"(1)	Licensed Clinical Social Worker (LCSW)	2.5
(2)	Licensed Marriage, Family and Child Counselor (LMFCC)	2.5
(3)	Master's of Social Work (MSW) (60 units)	2.0
(4)	Master's of Science in Counseling (MSC) (60 units)	2.0
(5)	Master's (30 units) in a discipline which would enable the individual to sit for the LMFCC or LCSW exam.	1.75
(6)	Bachelor of Social Work (BSW) with at least two years of full-time equivalent experience.	1.5"

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- (b) In addition to the above weightings, each eligible hour of social work activity performed by a group home employee who meets the requirements of Section 11-402.212(a)(5) shall be eligible for the weighting of 1.5.
- (c) All individuals, whether employee or under contract, receive the same weighting for their professional level.
- (d) Each weighted eligible hour of social work activities provided under the terms of a direct contact contract shall be multiplied by 2.0 subject to the following restrictions:
 - (1) The contract only reimburses for those hours spent in direct contact with the child(ren) being served and does not reimburse for ancillary social work activities, such as the development of needs and services plans or discharge plans;

11-402 GROUP HOME RATE SETTING (Continued)

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The weighted social work hours per month for this social worker are 217.5 (87 X 2.5).

- (2) Another LCSW provided direct contact social work activities based on a contract for 80 hours per month.

The weighted social work hours per month for this social worker are 400 (80 hours X 2.5 professional level weighting X 2.0 "direct contact" contract additional weighting).

- (3) Total social work weighted points are 617.5 (217.5 + 400), divided by 5.4 for 114.35 points attributed to social work.

- (c) Mental health point computation:

- (1) The group home program averages six children in placement per month:

- (A) Two children in a mental health day treatment program;
- (B) Three others seen by a psychologist in a group therapy session at the group home for one hour a week; and
- (C) One other seen in private sessions in a clinic two hours a week by a psychiatrist.

- (2) The weighted mental health hours are:

- (A) For mental health day treatment: two children = $\frac{2}{6}$ of the maximum mental health points (30) for a total of 10.
- (B) For the psychologist: Four hours X 5.0 professional weighting = 20 weighted hours per month.
- (C) For the psychiatrist: Eight hours per month X 5.0 professional weighting = 40 weighted hours.

- (3) Total mental health points are: 20 (psychologist) + 40 (psychiatrist) = 60 divided by 5.4 = 11.11 + 10 (day care) = 21.11.

HANDBOOK CONTINUES

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- (d) Total point computation:
- (1) Add the points for CCS (216.65), social work activities (114.35) and mental health treatment services (21.11) for a total of 352.11.
 - (2) The XYZ program total points are 352 which is in Rate Classification Level 11.

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.3 Group Home Annual Rate Application Process

- .31 Each provider shall submit to the Department a completed rate application as specified in Sections 11-402.35 through 11-402.59, as appropriate, for each program each fiscal year in order to receive a rate for that program. The rate application shall contain a statement that the signatory understands that the information contained in the document is correct to the best of their knowledge and that submission of false or misleading information may be prosecuted as a crime.
- .32 The due date for annual rate applications shall be May 1.
 - .321 An application not postmarked by the due date shall be considered late.
 - .322 Providers shall be allowed to request a determination of good cause for submitting a late application as specified in Section 11-402.37.
 - .323 Providers who do not request a determination of good cause for submitting a late application shall be subject to the penalty provisions specified in Section 11-402.38.
- .33 A rate application shall be considered complete when all required forms have been completed with the necessary information and supporting documentation, as required in Section 11-402.35 needed to determine the RCL, have been submitted to the Department.
 - .331 Providers shall be allowed to request a determination of good cause for submitting an incomplete application as specified in Section 11-402.37.
- .34 The effective date of the rate for timely and complete rate applications shall be July 1.

11-402 GROUP HOME RATE SETTING (Continued)**11-402**

- .35 An annual rate application with no program changes shall include:
- .351 A complete Group Home Program Rate Application, SR 1;
 - .352 A complete Program Classification Report, (SR 2); and a complete Group Home Program Days of Care Schedule, (SR 5).
 - .353 A copy of:
 - (a) The provisional license issued by CCL in accordance with Title 22, California Code of Regulations, Division 6, for each facility, and the permanent license when received, if not submitted with a previous rate application; and
 - (b) Effective with the implementation of the group home administrator certification program, the group home administrator certificate indicating completion of that program as required in Health and Safety Code Section 1522.41.
 - .354 The following if not submitted with a previous rate application:
 - (a) A copy of the organization's tax exempt status letter from either the Internal Revenue Service (IRS) or the California Franchise Tax Board designating the provider as tax exempt; and, if applicable,
 - (b) An endorsed copy of the group home organization's articles of incorporation, filed with the California Secretary of State, demonstrating the organization:
 - (1) Operates in the public interest for scientific, education, service or charitable purposes;
 - (2) Is not organized for profit making purposes; and
 - (3) Uses its net proceeds to maintain, improve or expand its operations.
 - .355 A declaration signed by the group home's board of directors that the organization will operate during the fiscal year in the public interest for scientific, education, service or charitable purposes; is not organized for profit making purposes; and uses its net proceeds to maintain, improve or expand its operations.
 - (a) The group home provider shall immediately notify the Department if the group home ceases to operate on a nonprofit basis.

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- .356 The group home training plan projected for a fiscal year or for providers with programs classified at RCL 13 or 14 who opt for the management of assaultive behavior training, the information required in Section 11-402.221(e)(7);
- .357 A certification by the provider that all information contained in the program statement previously submitted remains current with no changes; and
- .358 In addition to the items in Sections 11-402.351 through .357, a group home program classified at RCL 13 or RCL 14 shall submit:
 - (a) A written agreement, that the program shall accept for placement only assessed/qualified children or emergency placements, as provided in Section 11-402.181(b). The agreement shall include the following:
 - (1) An original signature of the same individual whose signature appears on the SR 1; and
 - (2) The date signed.
 - (b) A statement, accompanied by appropriate documentation, that the requirements of Section 11-402.181(c) regarding the program certification have been met.
- .359 An approval letter from the State Attorney General's Charitable Trust Section. Beginning Fiscal Year 1998/99, this letter shall be required as verification of review and approval of shelter costs which include self-dealing transactions, as defined in Nonprofit Corporation Law, Title 1, Division 2, Section 5233, California Corporations Code.
 - (a) To request a review by the Attorney General's Charitable Trust Section, a provider shall submit a written request by certified mail, return receipt requested, to the Attorney General's Charitable Trust Section for review and approval of the transaction as specified by Title 11, Division 1, Chapter 15, Section 999.1(a), California Code of Regulations.
 - (b) Include the approval letter received from the Attorney General's Charitable Trust Section as a component of the rate application package submitted to the Department. If more than sixty (60) days has passed since the submission of the request for approval, and no approval letter has been issued by the Attorney General, then a rate, not to exceed 120 days, shall be set pending receipt of the approval.

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- (c) Section 999.1(a), California Code of Regulations states in part:

“Giving Notice to and Submitting Requests to Attorney General: When Notice or Request is Deemed ‘Filed with Attorney General.’ For purposes of giving notice to the Attorney General or submitting requests for approval or other action to the Attorney General pursuant to any of the subsections contained in sections 999.2 through 999.4 of these Regulations, all notices and requests shall be submitted in writing at the office listed below...

“Attorney General, Charitable Trusts Section
50 Fremont Street, Suite 300
San Francisco, CA 94105-2239

“...Said written notices or requests shall be deemed to be filed with the Attorney General when the notices or requests are received at the office of the Attorney General with the information required by sections 999.2(e), 999.3(e) and 999.4 of these regulation.”

- (d) All applicants needing this review by the Attorney General are urged to submit no later than January 1, 1998 and then by January 1 of the year in which they renew their lease.

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.36 (Reserved)

.361 Repealed by Manual Letter No. OPS-03-01, effective 2/13/03.

.362 Repealed by Manual Letter No. OPS-03-01, effective 2/13/03.

.363 Repealed by Manual Letter No. OPS-03-01, effective 2/13/03.

.364 Repealed by Manual Letter No. OPS-03-01, effective 2/13/03.

11-402 **GROUP HOME RATE SETTING** (Continued)

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.37 The Department's good cause procedures shall be as follows:

.371 Providers unable to submit a timely or complete rate application by the due date shall be allowed to submit in writing, a request for a determination of good cause as defined in Section 11-400g.(1) which shall be postmarked within five calendar days of the application due date.

(a) The request shall contain the following:

- (1) A clear statement that this is a request for determination of good cause.
- (2) The specific reason(s) for submitting an incomplete or untimely application.
- (3) The provider's name, address and phone number.
- (4) The name, address and phone number of the person to be notified regarding the determination of good cause.
- (5) The name, location and program number of the affected program(s).

(b) Repealed by Manual Letter No. OPS-03-01, effective 2/13/03.

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.372 Within 10 calendar days of the postmarked date of the request for a determination of good cause, the Department shall make a determination of good cause and shall notify the provider in writing of the determination.

(a) When the Department determines there has been good cause for a late or incomplete filing of an application the Department shall notify the provider that a complete application is due within 30 days of the postmark of the notification.

(1) For complete applications submitted in accordance with Subsection (a), the effective date of the rate shall be July 1.

(2) Applications which are incomplete or are not submitted within the 30-day period in Subsection (a) shall be subject to the penalties in Section 11-402.38.

(b) When the Department determines there is no good cause for a late or incomplete filing of an application, the Department shall notify the provider in writing that a complete application must be submitted prior to the first of the next calendar month to avoid additional late penalties.

(1) The rate shall be set in accordance with the appropriate late or incomplete application penalties specified in Section 11-402.38.

(c) Repealed by Manual Letter No. OPS-03-01, effective 2/13/03.

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11-402 GROUP HOME RATE SETTING (Continued)

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- (i) Welfare and Institutions Code Section 11462(e)(1)(E) provides:

A group home provider may request a hearing of the department's RCL determination under subparagraph (A) no later than 30 days after the date the department issues its RCL determination. The department's RCL determination shall be final if the group home provider does not request a hearing within the prescribed time. Within 60 days of receipt of the request for hearing, the department shall conduct a hearing on the RCL determination. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department. The hearing officer shall issue the proposed decision within 45 days of the close of the evidentiary record. The director shall adopt, reject, or modify the proposed decision, or refer the matter back to the hearing officer for additional evidence or findings within 100 days of issuance of the proposed decision. If the director takes no action on the proposed decision within the prescribed time, the proposed decision shall take effect by operation of law.

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- (e) A copy of the notice shall be sent to the host county, the primary placing county and any other counties which may be affected by the rate termination and which can be identified by the Department.

.393 When a provider's rate will be terminated for any reason other than those listed in Section 11-402.391 or 11-402.392, including failure to submit a financial audit report as required by Section 11-405.2, the Department shall provide notice to the provider of the rate termination date. The notice shall:

- (a) Be in writing,
- (b) Allow 60 days from the date of mailing of the notice prior to termination, and
- (c) Include the provider's appeal rights as specified in Welfare and Institutions Code Sections 11468 through 11468.6.
- (d) A copy of the notice shall be sent to the host county, the primary placing county and any other counties which may be affected by the rate termination and which can be identified by the Department.

11-402 GROUP HOME RATE SETTING (Continued)**11-402****.394 Effective Dates of Termination**

- (a) For rate terminations pursuant to Section 11-402.391, the Department shall terminate the rate for the facility(ies) within the program on the effective date that the license is revoked, surrendered, expires or otherwise lapses.
- (b) For rate terminations pursuant to Section 11-402.392, the Department shall terminate the rate for that program 45 days after the date of issuance of the program audit report of the provisional rate. Where a provider has appealed the decision of the Department pursuant to Section 11-430.19, the Department shall terminate the rate for that program 30 days after the director=s decision [see Section 11-430.194(f)].
- (c) For terminations pursuant to Section 11-402.393 above, the Department shall terminate the rate for that program on the first of the month following sixty days after the postmarked date of the termination notice.

.395 When a Community Treatment Facility provider fails to maintain a current license issued by CCL as specified by Section 11-402.188(a), or a current CDMH mental health treatment certification as specified by Section 11-402.188(b), the Department shall provide notice to the provider of the rate termination date. The notice shall:

- (a) Be in writing.
- (b) Inform the provider that the termination date shall be the effective date the license and/or certification was revoked, surrendered, expired, or otherwise lapsed.
- (c) Include the provider's appeal rights as specified in Welfare and Institutions Code Sections 11468 through 11468.6.
- (d) Be sent to the host county, the primary placing county, the regional/county entity(ies) the provider has entered into an agreement with to reserve or leave bed(s) vacant, and any other counties which may be affected by the rate termination and which can be identified by the Department.

11-402 GROUP HOME RATE SETTING (Continued)

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.4 Deviations from Annual Rate Setting

.41 New Program

.411 An initial rate application from an existing provider for a new program shall include all required forms and information listed in Sections 11-402.351 through 11-402.359, and the Group Home Program Cost Report (SR 3) with projected cost data with the following additional requirements:

- (a) A new and complete program statement shall be submitted with each initial rate application. The program statement shall include the following until such time as a standardized program statement is implemented pursuant to Welfare and Institutions Code Section 11467(c);
 - (1) The goals and purpose of the program,
 - (2) The characteristics of children served,
 - (3) Organizational chart and administrative information including names, addresses and titles of all members of the Board of Directors, all corporate officers, and all partners as appropriate,
 - (4) A description of the type and level of social services and mental health treatment services offered,
 - (5) A job duty statement for each classification utilized by the group home, and
 - (6) A description of special program services.
 - (A) If applicable, the vocational training program offered within the program.
 - (B) A program which has vocational training for children in placement is one which is designed to impart to the children in placement, the skills necessary for a vocation or trade.

11-402 GROUP HOME RATE SETTING (Continued)**11-402**

- (C) A vocational training program shall qualify if the program:
 - (i) Teaches a skill(s) which benefits the child;
 - (ii) Provides instruction which includes hands- on experience and specified quantifiable training goals;
 - (iii) Consumes a percentage of the children's day at regularly scheduled hours;
 - (iv) Sustains costs for qualified staff, costs for equipment, materials and the space required for the training;
 - (v) Is not funded by the Department of Education for the vocational training provided;
 - (vi) Does not provide educational credit to the children in placement;
 - (vii) Is an integral part of the group home program and is not the result of coincidental factors such as hiring of a child care worker(s) or first-line supervisor(s) who happen to have vocational skills; and
 - (viii) Is not transitory and does not depend upon the continued employment of child care worker(s) and first-line supervisor(s).
- (7) An existing provider operating a group home program in the facility(ies) in which he/she intends to provide a new program shall:
 - (A) Obtain verification from the placement agency that an assessment as described in Section 31-420.241 has been completed on each child to ensure that the level of care and services of the new program meets the needs of the child.

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(B) Section 31-420.241 states:

".241 Placements in group homes shall be subject to the following additional requirements:

"(a) The following conditions shall exist and shall be documented in the case plan:

"(1) Placement is necessary to meet the treatment needs of the child.

"(2) The group home has a treatment program that meets such treatment needs."

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- (b) Providers who are discontinuing any group home program(s) in favor of a new program shall submit the Group Home Program Days of Care Schedule (SR).
- (c) The placement agency recommendation from the host or the primary placing counties as appropriate and as specified in Section 11-425.12.
- (d) A copy of the provisional license issued by CCL in accordance with Title 22, California Code of Regulations, Division 6, and the permanent license when received.
- (e) Effective with the implementation of the group home administrator certification program, the group home administrator certificate indicating completion of that program as required in Health and Safety Code Section 1522.41.

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- .412 The effective date of a new program provisional rate shall be the later of:
- (a) Date of first placement, or
 - (b) Date the Department received a complete rate application as specified in Section 11-402.411, or
 - (c) Date of the provisional license.
- .413 The Department shall establish the provisional rate based on the projected RCL for a group home program using data submitted by the provider in the initial rate application specified in Sections 11-402.351-.36.
- .414 The Department may request additional information to complete the initial rate application process in accordance with Sections 11-402.524(b)(1) through (3).
- .415 Applications for new programs which do not meet the requirements of Section .411 shall be subject to Section 11-402.43, Program Changes.
- .416 The effective date of a new program's rate, whether it will maintain or decrease the provisional rate, shall be the first of the month following the date of issuance of the Department's program audit report.

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.42 New Provider

.421 A new provider shall be as defined in Section 11-400n(4).

(a) For foster care group home rate setting purposes, a new provider shall not be any of the following:

(1) The addition of a new program by an existing provider.

(2) Any change specified in Section 11-402.43, Program Changes.

(3) A change or reorganization in the provider's incorporation and/or a reorganization of his/her administration.

(4) A provider who fails to submit an annual rate application for an on-going program.

(b) Applications for new providers which do not meet the requirements of this section shall be subject to Section 11-402.43, Program Changes.

.422 An initial rate application from a new provider shall include all required forms and information listed in Sections 11-402.351 through 11-402.359, as appropriate, with the following additional requirements:

(a) A complete program statement shall be submitted which shall include all the appropriate documentation and information as listed in Section 11-402.411(a).

(b) The Group Home Program Cost Report (SR 3) and Group Home Program Days of Care Schedule (SR 5) (Rev. 10/94) shall be completed identifying projected data.

(c) Placement agency recommendation from the host or the primary placing counties as appropriate and as specified in Section 11-425.12.

(d) A copy of the provisional license issued by CCL in accordance with Title 22, California Code of Regulations, (CCR) Division 6, and the permanent license when received.

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11-402 GROUP HOME RATE SETTING (Continued)

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- (e) Effective with the implementation of the group home administrator certification program, the group home administrator certificate indicating completion of that program as required in Health and Safety Code Section 1522.41.
- .423 Initial rate application documents shall be submitted to the Department prior to the first placement.
- .424 The effective date of the provisional rate for a new provider shall be the later of:
 - (a) Date of first placement, or
 - (b) Date the Department receives a complete rate application as specified in Section 11-402.422, or
 - (c) Date of the provisional license.
- .425 The effective date of the rate for a new provider, whether it will maintain or decrease the provisional rate, shall be the first of the month following the date of issuance of the Department's program audit report.
- .426 The Department shall establish the provisional rate based on the projected RCL for a group home program using data submitted by the provider in the initial rate application specified in Sections 11-402.351-.359.
- .427 The Department may request additional information to complete the initial rate application process in accordance with Sections 11-402.524(b)(1) through (3).
- .43 Program Changes
 - .431 A program change shall be as defined in Section 11-400p.(7).
 - (a) For purposes of rate setting, a program change shall include a change to:
 - (1) The number of beds for the program, except as follows:
 - (A) The first increase of five or fewer beds in the lifetime of a program with no change to the program's RCL based on the number of points computed in accordance with Section 11-402.23.

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- (i) Calculate the RCL for the program based on the proposed expansion to verify that the RCL after the expansion is the same as the RCL approved by the Department for the program; and
 - (ii) Contact the Department to inform of capacity change and point determination.
- (2) Conditions or limitations described on the license which necessitates submission of a new license application as required by Title 22, Division 6, Section 80034(a).

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A licensee shall file a new application as required by Title 22, Division 6, Section 80018 whenever there is a change in conditions or limitations described on the current license, or other changes including, but not limited to, the following:

- (1) Any change of licensee, including, but not limited to, the following when the licensee is a corporation.
 - (A) Sale or transfer of the majority of stock.
 - (B) Separating from a parent company.
 - (C) Merger with another company.

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- (b) A group home provider shall report any proposed program change to the Department, in compliance with the requirements for program change application specified in Section 11-402.432.
 - (1) The program shall continue to receive the existing rate.
- (c) The Department shall:
 - (1) Set a provisional rate that increases an RCL based on the projected RCL using data submitted by the provider in the program change application specified in Section 11-402.432.

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- (2) For purposes of (c)(1) the Department may request additional information to complete the program change application process in accordance with Sections 11-402.524(b)(1) through (3).
 - (d) Failure to report a program change, the result of which is a decreased rate, as described in Section .435, shall result in the assignment of an overpayment and the adjustment of the current rate as appropriate following a program audit as specified in Sections 11-402.5 and .6.
- .432 An application for an RCL change or a program change shall include:
 - (a) A complete Group Home Program Rate Application, (SR 1, Rev. 12/94).
 - (b) A complete Program Classification Report, (SR 2, Rev. 12/94).
 - (c) An amended program statement reflecting the change and containing the elements specified in Sections 11-402.411(a)(1) through (6).
 - (d) Providers making program changes affecting more than one program, that is, discontinuing one program in favor of another as described in Section 11-402.435(c)(1) or otherwise discontinuing a program, shall submit the Group Home Program Days of Care Schedule (SR 5).
 - (e) A copy of the provisional license issued by CCL in accordance with Title 22, Division 6, Chapter 5, California Code of Regulations and the permanent license when received.
 - (f) Repealed by Manual Letter No. OPS-03-01, effective 2/13/03.
- .433 Additional Requirements for Program Changes
 - (a) A program change application projecting an increase of an RCL level to a group home program shall be accompanied by the placement agency recommendation, as specified in Section 11-425.12 and any other requirements specified in Welfare and Institutions Code Section 11462(k).

11-402 GROUP HOME RATE SETTING (Continued)

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- (b) A program change application to change a program to RCL 13 or RCL 14 shall include a recommendation, as specified in Section 11-425.12, from either the host or the primary placing county and any other requirements specified in Welfare and Institutions Code Section 11462.01.
 - (c) For fiscal year 1198-99 and any other subsequent years for which this statutory restriction applies, a program change application which increases the licensed capacity of a program with a higher RCL as a result of decreases in another program which is operated by the same provider and has a lower RCL shall be accompanied by the placement agency recommendation, as specified in Section 11-425.12 and any other requirements specified in Welfare and Institutions Code Section 11462(k)(3)(A).
 - (d) A group home program which has received a provisional rate may not apply for a program change which will result in an increase in its RCL prior to two years from the effective date of the rate for the provider unless a recommendation is received from the host county, the primary placing county, or a regional consortium of counties as specified in Section 11-425.12 and any other requirements specified by Welfare and Institutions Code Section 11462(e)(1)(A).
- .434 A program change application shall be submitted prior to the effective date of the change but no later than 30 days after the change.
- .435 The effective date of the rate for program changes, by the type of change, shall be:
- (a) For the RCL which is not changing:
 - (1) For an increase in licensed capacity greater than five in the same or a new facility, the effective date shall be the later of:
 - (A) Date of first placement; or
 - (B) Date of group home license approval.
 - (2) For a decrease in licensed capacity, the effective date shall be the date of the decrease.
 - (b) For the RCL which is changing:
 - (1) For a decrease in RCL, the effective date shall be the date implementing operation of the program at the lesser RCL.

11-402 GROUP HOME RATE SETTING (Continued)**11-402**

- .44 Programs Classified at RCL 12 or Below Which Fail to Maintain the RCL
- .441 A group home provider who self-reports information in a rate application as defined in Section 11-400r.(1) that results in a failure to maintain its RCL shall be subject to the provisions of Section 11-402.443. For programs classified at RCL 13 or RCL 14 refer to Section 11-402.46.
- .442 Providers with programs classified at RCL 1 through RCL 12 which fail to maintain the projected RCL shall submit the information required by Section 11-402.432 unless:
- (a) The RCL is expected to return to the RCL approved by the Department for the current fiscal year by the end of 90 days, and
- (b) The average fiscal year RCL will not be affected by the temporary decrease.
- .443 The Department shall verify the self-reported information submitted in accordance with Section 11-402.441 by a group home provider that the program has failed to maintain the RCL as defined in Section 11-400f.(1) and set a new rate based on the new information provided.
- .444 The effective date of the new rate shall be the date at which the program failed to maintain the previously approved RCL.
- .445 Programs for which the actual RCL is lower than the RCL upon which the rate was established shall be subject to the provisions in Section 11-402.55, Corrective Action, and Section 11-402.6, Overpayments.
- .446 When the Department's determination of a rate based on the Department's program audit of the provisional rate is more than three levels lower than the RCL initially projected by the group home provider, the Department shall terminate the provider's rate 45 days after the date of issuance of the program audit report unless the provider timely requests a hearing on the Department's RCL determination (see Section 11-430.19 for appeal procedures).
- (a) The Department shall deny any request for a new or increased RCL from a provider whose RCL is terminated under this section for two years from the effective date of the RCL termination; or for a shorter period of time if the provider submits the county placement agency recommendation, as specified in Section 11-425.12, has corrected any deficiencies identified in the Findings of Audit Report which resulted in the termination of their RCL, and has implemented internal controls necessary to avoid future audit deficiencies.

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.45 Program Reinstatement

- .451 A program reinstatement is a process to re-establish a program that has been terminated as specified in Sections 11-402.39, 11-402.524, 11-402.525, 11-402.526, 11-402.527, 11-402.667, 11-402.668, 11-402.669, and 11-405.217 through .219. A program shall be reinstated when the Department determines that all appropriate requirements specified in Sections 11-402.3, 11-402.667, and 11-405.2 have been met. For programs classified at RCL 13 and RCL 14, all requirements as specified in Section 11-402.181 must be met.

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- .613 A group home provider who is successful in its appeal of a collected overpayment shall be reimbursed the collected overpayment plus interest in accordance with Section 11466.22(g) of the Welfare and Institutions Code.
- .614 Overpayments (according to Section 11-402.6) shall not be assessed in the following circumstances:
- (a) The provider is able to demonstrate he/she acted prudently on erroneous information provided by an employee, and within 60 days of the notice of audit results, takes appropriate action to:
 - (1) Correct the error, or
 - (2) Adjust the RCL.
- .62 An overpayment situation shall be created when the actual average RCL falls below the projected average RCL for the same period or AFDC-FC funds are spent in a manner that is inconsistent with Section 11-404. An overpayment shall be caused by, but is not limited to, the following:
- .621 The provider does not meet the projected average RCL because of erroneous, incomplete or misleading information provided to the Department with the rate application, such as:
- (a) False documentation for staff education, experience or on-going training.
 - (b) An inaccurate number of staff hours claimed for any of the three program components.
- .622 A Department administrative error is made notifying a provider of their RCL.

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- .623 Example: A provider submits an application indicating an RCL of five. The Department verifies the projected RCL five. A clerical error is made in the notification letter to the provider indicating the projected RCL is seven. In this situation, the provider is aware or should reasonably be aware that his/her program is only an RCL five. If the provider fails to notify the Department of the discrepancy, an overpayment shall be generated.

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- .624 The provider's annual program application is submitted late and/or incomplete.
 - .625 The provider fails to maintain. See Section 11-400f.(1).
 - .626 A group home program classified at RCL 13 or RCL 14 is reclassified in accordance with provisions in Section 11-402.46.
 - .627 The group home provider owes a penalty assessed by the Department in accordance with Sections 11-402.183(d) or 11-402.531(c).
 - .628 AFDC-FC program funds are spent on items not listed in Section 11460(b) of the Welfare and Institutions Code.
 - .629 AFDC-FC program funds are not spent on permissible items as specified in Section 11-404.
- .63 Overpayments shall be determined by:
- .631 The provider reporting information to the Department related to the annual rate application, new program and RCL changes.
 - .632 The group home provider self-reporting an overpayment.
 - (a) A group home provider who self-reports an overpayment may reconcile the previously submitted information with corrected information which shall be subject to the following:
 - (1) A group home provider who modifies a self-reported overpayment shall meet the documentation requirements contained in Sections 11-402.3, 11-402.4, 11-402.5, 11-405.1, and 11-402.8.
 - (2) A group home provider who fails to reconcile in accordance with Section 11-402.632(a)(1) shall be subject to Sections 11-402.3, 11-402.5, and 11-402.6.
 - (3) A group home provider shall have 30 days from the postmark date of the letter notifying the provider of an overpayment to reconcile self-reported information that identifies the overpayment.
 - (b) The information submitted by a group home provider which identifies a self-reported overpayment shall be subject to the audit adjustment process contained in Section 11-402.56.

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- .633 The Department verifying through a fiscal audit that a group home provider expended AFDC-FC program funds on items not listed in Section 11460(b) of the Welfare and Institutions Code (see handbook example at Section 11-402.821) or Section 11-402.827 or on items listed in Section 11-402.826.
- .634 The Department verifying an actual RCL lower than projected RCL during the rate application process or a program audit; or
- .635 The Department verifying during the rate application process or a program audit, that a group home program classified at RCL 13 or RCL 14 did not meet all the requirements specified in Sections 11-402.181.
- .636 The Department determining through a management decision, that a non-profit corporation misused or fraudulently expended AFCD-FC program funds. If an overpayment exists as determined by a program audit and the Department has determined that a non-profit corporation misused or fraudulently expended funds in accordance with Section 11-405.23, then only the greater of the overpayment amounts is subject to recovery.
- .64 Overpayment Processing:
 - .641 The Department shall provide written notification to the provider and affected counties of an overpayment according to Section 11-402.534(c).
 - .642 The beginning date of an overpayment shall be the earlier of:
 - (a) July 1 of the affected fiscal year for an on-going program, or
 - (b) The date of first placement at the incorrect RCL for new programs, program changes, or program reinstatements; or
 - (c) For a group home program classified at RCL 13 or RCL 14, the date of occurrence, as specified in Section 11-402.46 or the penalty period as specified in Sections 11-402.183(d) and 11-402.531(c).
 - .643 The amount of overpayment shall be computed by:
 - (a) Averaging the actual number of points per month for the total audit period.

11-402 GROUP HOME RATE SETTING (Continued)

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- (b) Subtracting the average in (a) from the lowest point level in the point range of the projected RCL for the audit period to determine the number of points below the projected average RCL. The number of points below the projected average RCL shall be used to determine the overpayment factor as follows:

Number of Points below projected average RCL	Overpayment Factor
(1) 1 - 5	= \$100
(2) 6 - 10	= \$200
(3) 11 - 30	= 100 percent of the difference between the rates in the projected and actual RCLs. The difference shall be determined by subtracting the dollar amount corresponding to the rate floor of the audited RCL for the audit period from the actual paid rate.

- (c) Multiplying the average group home occupancy of children who receive AFDC-FC during the audit period by the number of months in the audit period times the overpayment factor in (b).
- (d) The result is the total overpayment owed.
- (e) If the actual audited average RCL is more than one RCL below the projected average RCL, the overpayment is computed by adding the difference in the rates between the RCL(s), as computed in accordance with Section 11-402.643(b)(3), plus the overpayment factor for the partial RCL.
- (f) During the period a program received a frozen rate, any overpayments shall be assessed as specified in Section 11-402.943.
- (g) A fiscal audit overpayment amount shall be the amount determined under Section 11-402.633.

11-402 GROUP HOME RATE SETTING (Continued)

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- (1) Simple interest based on the Surplus Money Investment Fund.
 - (d) The Department shall collect overpayments under the mandatory repayment schedule by offsetting against current group home provider rate reimbursement payments under the AFDC-FC program in accordance with MPP Section 11-402.66.
 - (e) The Department shall issue, to a provider and the counties, a rate letter that indicates the amount of the offset which will be applied to the monthly overpayment amount including interest and the amount of the actual rate reimbursement to the group home provider during the period the mandatory repayment schedule will be in effect.
 - (f) The Department shall provide an annual report regarding the status of departmental collection activities to all counties and group home providers subject to the following:
 - (1) Repayment Agreement; and
 - (2) Mandatory Repayment Schedule.
- .665 A group home provider subject to a mandatory repayment schedule shall be subject to the following requirements:
- (a) In addition to the monthly payment reduction amount subject to Section 11-402.664, fifty percent of any California Necessities Index (CNI) increases and any adjustments to the Standardized Schedule of Rates in the AFDC-FC program shall be withheld and applied towards a group home provider overpayment until a mandatory repayment schedule recovers any outstanding overpayments.
 - (b) Any group home provider subject to a mandatory repayment schedule in accordance with Section 11-402.664, shall be ineligible to receive a program change that results in an RCL increase until the mandatory repayment schedule recovers the overpayment or the host or primary placing county requests a waiver from the Department.
 - (1) The waiver request shall be in writing.
 - (2) The increased rate reimbursement resulting from the RCL increase shall be subject to the requirements in Section 11-402.664.

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11-402 GROUP HOME RATE SETTING (Continued)

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Welfare and Institutions Code Section 11466.36(a) states the following:

"(a) The department may terminate a group home rate if any of the following conditions are met:

(1) The director determines that, based upon the findings of a hearing officer, a rate application or information submitted by a provider was fraudulently submitted to the department.

(2) A provider with an outstanding sustained overpayment incurs a second sustained overpayment, and is unable to repay the sustained overpayments.

(3) A provider has a sustained overpayment that represents 100 percent of a provider's annual rate reimbursement."

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.669 A group home provider that has a rate terminated under Section 11-402.668 shall have the rate terminated in accordance with Sections 11-402.33(a), (b), and (d) and 11-402.394.

.7 Renumbered to Subsections 11-405.1 through .141 by Manual Letter No. OPS-99-01, effective 1/1/99.

.8 Cost Reporting

.81 A provider shall report the actual allowable and reasonable costs for each program to the Department on Forms SR 3 and SR 4 based on the provider's fiscal year in accordance with Section 11-405.214.

.811 If the provider has established a new program within the provider's previous fiscal year and has less than 12 months of data, the provider shall submit cost data for the first month the rate is effective to the end of the provider's fiscal year.

.812 Repealed by Manual Letter No. OPS-03-01, effective 2/13/03.

11-402 GROUP HOME RATE SETTING (Continued)

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.82 Allowable Costs

Reported costs shall be actual allowable and reasonable as defined in federal statutes and regulations including 45 CFR, Part 74 and 45 CFR, Part 1356 in addition to other costs listed in Sections 11-402.822 and .823.

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.821 Actual allowable and reasonable costs as defined in 45 CFR, parts 74 and 1356 state in part:

"(a) The reasonable cost of, and the cost of providing the following:

- (1) Food.
- (2) Clothing.
- (3) Shelter.
- (4) Daily supervision.
- (5) School supplies.
- (6) Personal incidentals.
- (7) Travel to the child's home for visitation.
- (8) Liability insurance which covers the child.

(b) The reasonable cost of administration and operation necessary to provide the items described in (a) above."

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.822 The reasonable social work activities offered by providers.

.823 Reasonable, actual principal and interest on original acquisition mortgages.

(a) If the original acquisition mortgages are refinanced, the lesser of the following shall be allowed.

- (1) The amount of interest associated with the original acquisition loan amounts, or

11-402 GROUP HOME RATE SETTING (Continued)**11-402**

- (c) Food. All costs related to food planning, preparation and service, kitchen supplies, and food stuffs for children in placement including, but not limited to, food worker payroll, payroll taxes, employee benefits, food expense and kitchen supplies.
 - (d) Shelter. Shelter costs include, but are not limited to, the original mortgage principal and interest for owned real property; use allowance on buildings for which no original mortgage principal or interest is claimed for owned real property; reasonable lease or rental costs of real property; use allowance for capital improvements; taxes; building insurance; and appraisals for owned, leased, or rented real property.
 - (e) Buildings and Equipment. Building and equipment cost include, but are not limited to, building and equipment payroll; payroll taxes and employee benefits; building maintenance; contracts; supplies; equipment leases; equipment depreciation expense; expendable equipment; and miscellaneous building and equipment expenses.
 - (f) Utilities. Utilities costs include, but are not limited to, the cost of electricity, natural gas, water, garbage, and sewer.
 - (g) Vehicles & Travel. Vehicle and travel costs include vehicle leases, depreciation, operating costs and transportation of the child.
 - (h) Child-Related. Child-related costs include, but are not limited to, clothing, personal and incidental expenses for the child, school supplies, planned activities, and other child-related costs. County paid clothing allowances shall offset these costs by the amount actually paid.
 - (i) Administration. The costs necessary for the on-going administration and support functions of the organization include, but are not limited to, administration payroll; contracts; telephone and telegraph; postage and freight; office supplies; administrative travel; conferences; meetings; in-service training; memberships; subscriptions; dues, printing and publications; bonding; general insurance; organizational costs; advertising; recruiting; and miscellaneous.
- .828 For purposes of reporting AFDC-FC costs, the determination of what is reasonable shall be based upon the standards listed below and the actions a prudent person would take in similar circumstances.
- (a) Shelter costs shall be considered reasonable in relation to the fair market value limit as described below:

11-402 **GROUP HOME RATE SETTING (Continued)**

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- (1) Reimbursement of shelter costs shall not exceed 12 percent of the fair market value of owned, leased, or rented buildings, that are used for group home programs and activities exclusive of idle capacity and capacity used for nongroup home programs and activities.
 - (A) Fair market value shall be determined by either of the following methods as chosen by the provider:
 - (i) The market value shown on the last tax bill for the cost reporting period, or
 - (ii) The market value determined by an independent appraisal. The appraisal must be performed by a qualified, professional appraiser who, at a minimum, meets standards for Class III appraisers as specified in Title 10, California Administrative Code, Subchapter 2, and shall not be deemed independent if performed under a less-than-arms-length agreement or by a person or persons employed by, under contract with for purposes other than performing appraisals, or having a material interest in any group home which received AFDC-FC funds. The Department shall have the authority to determine that any appraisal does not meet the standard specified herein.

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- (B) Shelter costs for the purpose of the limit specified in Section 11-402.828(a) shall include, but not be limited to, the following:
 - (i) Original mortgage principal and interest, for owned property;
 - (ii) Use allowance on buildings for which no original mortgage principal or interest is claimed, for owned property;
 - (iii) Reasonable lease or rental costs for leased or rented real property;
 - (iv) Use allowance for capital improvements, for both owned and leased or rented property;
 - (v) Taxes, for both owned and leased or rented property; and
 - (vi) Insurance, for both owned and leased or rented property; and
 - (vii) The costs of independent appraisals, for both owned and leased or rented property.
- (b) Annual vehicle costs shall be deemed reasonable subject to the following conditions:
 - (1) Total annual vehicle costs may not exceed the standard rate allowed by the Internal Revenue Service for business use in effect at the time the vehicle costs are incurred.
 - (2) Except as provided in Section 11-402.828(b)(1), the total annual costs for vehicles may include the reasonable costs of purchasing or leasing and operating group home vehicles, including such costs as: depreciation, insurance, fuel, maintenance and repairs, license fees, taxes, and reimbursements to employees for business use of their personal vehicles.

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- (c) All executive compensation shall be reported for each executive officer. The reasonableness standards and criteria for executive compensation are contained in Internal Revenue Code Section 4958. This rule shall apply to all individuals of the non-profit corporation deemed by the Internal Revenue Service to be anyone in a position to exercise substantial influence over a non-profit corporation's affairs. This rule may apply to the individual's immediate family as well as to family-controlled entities. Compensation provided in accordance with Internal Revenue Code Section 4958 shall be deemed to be reasonable for the purposes of reporting AFDC-FC costs.

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- .83 Charitable Donations and Governmental Payments
 - .831 Unrestricted charitable donations from nongovernmental sources shall not be used to offset reported costs.
 - .832 Payments for allowable costs shall offset reported costs.
 - .833 Costs for staff whose hours are not counted for program classification purposes, because they are reimbursed from government sources other than AFDC-FC, shall not be reported as allowable costs.
 - .834 Donor restricted donations from private sources specified to fund an allowable cost shall offset allowable costs.
 - .835 Actual payments for clothing allowances shall offset allowable costs for clothing.
- .84 Accounting Requirements
 - .841 (Reserved)
 - .842 Accounting records shall be maintained in accordance with generally accepted accounting principles.
 - .843 All accounting records shall be retained for a minimum period of five years from the date of the final claim for that annual period or until all audit issues have been resolved.

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- (a) Examples include, but are not limited to, accounting records and journals, ledgers and supporting documentation, invoices, receipts, checks and/or vouchers.

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.844 Depreciation/Use Allowance

- (a) The straight-line method of calculating depreciation shall be used for equipment with a useful life of more than two years valued at \$500 or more based on the initial acquisition cost.
 - (1) Useful life shall be:
 - (A) A minimum of three years for automobiles.

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- (i) Examples include passenger vehicles and general purpose trucks with unloaded weight less than 13,000 lbs.

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- (B) A minimum of five years for all other depreciable equipment.

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- (i) Examples include office equipment, computer equipment, buses, commercial vans, and heavy general purpose trucks with unloaded weight of 13,000 lbs. or more.

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- (b) Providers shall be permitted to convert their existing depreciation methods to schedules which are consistent with the method specified in Section 11-402.844(a).
 - (1) The total depreciation charges throughout the useful life of the equipment shall not exceed the original cost of acquisition.
- (c) Use allowance shall be applied to the acquisition cost of building, for which no original mortgage principal and interest is paid, and to improvements.

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- (1) Use allowance shall be computed at an annual rate of two percent.
 - (d) Charges for use allowances or depreciation shall be supported by adequate property records, including acquisition date and cost, the depreciation period and the amount charged each cost period.
 - (e) Physical inventories shall be taken and documented at least once every two years for depreciable equipment.
- .845 Gains or losses on the sale, retirement or other disposition of vehicles and other equipment shall be included as credits or charges in the year in which they occur.
- .846 Cost Allocation
 - (a) Allowable AFDC-FC overhead costs as specified in Welfare and Institutions Code Section 11460(b)(1) shall be allocated to each AFDC-FC program.
 - (1) Allocation bases may include, but not be limited to, the following:
 - (A) Direct child care hours.
 - (B) Number of children in each program.
 - (C) Square footage; or
 - (D) If applicable, the percentage of AFDC-FC revenue.
 - (2) The allocation methodology shall be documented and is subject to audit as specified in Section 11-405.2.

.85 (Reserved)

.9 Phase-in Following Implementation

The standardized schedule of rates as specified in Section 11-402.15 shall be phased in over two state fiscal years (FY) starting with July 1, 1990 and ending June 30, 1992.

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NOTE: Authority cited: Sections 10553, 10553(e), 10554, 11460(b), 11462, 11462(j), 11462.06, 11466.1, 11466.2, and 11466.21, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23. Reference: Sections 1502(a)(1), 1502.4(b), and 1530.8, Health and Safety Code; Section 3353, California Labor Code; Sections 366, 4096.5, 4096.5(a), (c), (c)(1), and (2), and (d), 10852, 11226, 11228, 11230, 11231, 11232, 11233, 11235, 11236, 11400(h), 11402.5(a), 11460, 11460(b)(1), 11462, 11462(a)(1), (a)(2) and (a)(3), 11462(d), 11462(e)(3), 11462(g)(14), 11462(i)(1)(B), 11462.01(a), (a)(1), (2), and (3), 11462.01(b), 11462.01(d), (d)(1) and (2), 11462.01(e), 11462.01(f)(1), (2), and (3), 11462.01(g)(1), (2), (3), and (4), 11462.01(h), 11462.01(i)(1), (2), and (3), 11462.01(j), 11462.03, 11466.1, 11466.2, 11466.3, 11466.4, 11466.22, 11466.25, 11466.31, 11466.32, 11466.33, 11466.34, 11466.35, 11466.36, 11467, 11467.1 (Assembly Bill 1197, Chapter 1088, Statutes of 1993), 11468 through 11468.6, 16522(a) and (b), 16501.1(d), and 18350, Welfare and Institutions Code; Sections 1502(a)(1) and (a)(8), Health and Safety Code; Assembly Bill 1575, Chapter 728, Statutes of 1997; Public Laws 98-502 and 104-156; The Classification of Group Home Programs Under the Standardized Schedule of Rate System Report, August 30, 1989; Title 8, California Code of Regulations, Section 11050, Title 11, California Code of Regulations, Section 999.1(a); and Title 1, Division 2, Section 5233, California Corporations Code; and federal Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; *Government Auditing Standards* of the Comptroller General of the United States (Yellow Book); Department of Health and Human Services, Administration for Children and Families letters dated April 19, 2001, February 22, 2002 and May 7, 2002; and the Internal Revenue Code Section 4958.

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(a) Rate Determination Process

(1) The Department shall set rates for each foster family agency utilized by counties which place AFDC-FC children.

(A) The rate for a foster family agency program which provides treatment services for children who have treatment needs shall be set in accordance with Sections 11-403(a)(2) and 11-403(b)-(k).

1. As used in (A) above, "treatment needs" means that the placement agency, as defined in Section 11-400p.(3), has determined that the child has services needs which:

(i) Cannot be provided in an available family home;

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(See family home definition specified in Section 11-400f.(3).)

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(ii) Would require group home placement if the child was not referred to a foster family agency; and

(iii) Can be met by the program offered by the foster family agency to which the child is being referred.

2. The payment to foster parents of a foster family agency shall be at least as great as the Department's schedule of foster family agency basic rates plus the amount added by the Department in recognition of the specialized nature of the children placed in such homes.

(B) The rate for a foster family agency program which does not provide treatment services shall be the foster family agency basic rates as specified in Section 11-403(d)(1)(A)(i).

1. A specialized care rate as defined in Section 11-400s.(7) may be paid for a child placed in certified family home of a foster family agency as described in (B) above when the following conditions are met:

(i) the placing agency has determined that the child has care needs greater than those of a normal foster child; and

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- (ii) the placing county has a specialized care system as specified in Section 11-401.3.

(See Section 11-401.4 for out of county placement requirements for specialized care.)

- (2) One rate shall be set for each program for which a rate request is received from a given foster family agency.
 - (A) Each foster family agency shall identify and describe each of the programs it offers.
 - (B) The Department shall have the authority to verify the legitimacy and accuracy of the descriptions of each program offered.
 - (C) Where a foster family agency submits a rate request for more than one program and the Department determines that no significant difference exists between the programs, a separate rate or set of age-based rates shall not be set.

(b) Rate Ceilings

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- (1) Welfare and Institutions Code Section 11463 provides that no county shall be reimbursed for any percentage increases in payments, made on behalf of AFDC-FC funded children who are placed with foster family agencies, which exceed the percentage cost-of-living increase provided in any fiscal year beginning on or after January 1, 1990, as specified in subdivision (c) of Section 11461.

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(c) Allowable Costs

- (1) **Reported** costs shall be **actual** allowable and reasonable as defined in federal statutes and regulations including 45 CFR Part 74, 45 CFR Part 1356, and Section 11-402.8.
 - (A) Allowable costs shall include:
 - 1. Payment to the foster parents for those items specified in Sections 11-401.11 and .12.

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2. Reasonable social work activities provided by the foster family agency as defined in Section 11-400s.(4).
3. The reasonable cost of activities of recruiting and training certified family home foster parents and administration of the provision of items or services described in 1. and 2. above.
4. **Executive Compensation**

All executive compensation shall be reported for each executive officer. The reasonableness standards and criteria for executive compensation are contained in Internal Revenue Code Section 4958. This rule shall apply to all individuals of the non-profit corporation deemed by the Internal Revenue Service (IRS) to be anyone in a position to exercise substantial influence over a non-profit corporation's affairs. This rule may apply to the individual's immediate family as well as to family-controlled entities. Compensation provided in accordance with Internal Revenue Code Section 4958 shall be deemed to be reasonable for the purposes of reporting AFDC-FC costs.

(d) Rate Calculation

- (1) The rate shall consist of the sum of the following amounts per month per child:

- (A) The foster family agency basic rate as specified in Section 11-403(d)(1)(A)1., plus an increment of \$190;

1. The following FFA Basic Rates are effective July 1, 1999.

Age	0-4	5-8	9-11	12-14	15-19
FFA Basic Rate	375	407	434	482	525

- (B) The lesser of the actual allowable amount for social work services for the immediately preceding calendar year of \$271;
- (C) An amount equal to two-thirds of the sum of (A) and (B) above for recruitment, training, and administration. Effective January 1, 2000, two-thirds shall equal .667.

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- (D) EXAMPLE: The total rate for a 12-year-old child for FY 99-00 would be computed as follows:

Basic rate	\$482
Increment for child	190
Social work services	<u>271</u>
	\$943

Take two-thirds (.666) times the subtotal:

$$.666 \times 943 = 628$$

The recruitment, training, and administration amount would be \$628; the total rate would be \$1,571 (\$943 + \$628).

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(e) Rate Adjustments for Existing Foster Family Agency Rates

- (1) When, based on rate calculation provisions specified in Section 11-403(d), the newly calculated rate is lower than the existing rate, no increase in state participation in the existing rate shall occur until any cost-of-living increases provided in accordance with Welfare and Institutions Code Section 11463 eliminate the difference between the existing rate and the newly calculated rate.
- (2) When, based on rate calculation provisions specified in Section 11-403(d), the newly calculated rate is higher than the existing rate, any cost-of-living increases provided in accordance with Welfare and Institutions Code Section 11463 shall be applied until the difference between the existing rate and the newly calculated rate is eliminated.

(f) Rate Request Process

(1) Rate Request Submission

- (A) Each foster family agency shall submit to the Department a complete rate request for each program being provided in order to receive a rate for that program.

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- (B) A rate request shall be considered complete when all required forms, program statement, and other supporting documentation have been completed and submitted to the Department.
1. If all the required forms necessary to the actual setting of rates have been submitted, but additional documentation is needed, the rate request shall be considered complete if the foster family agency submits the remaining documentation within 30 days after notification by the Department.
- (C) For Fiscal Year 1985/86, a complete rate request shall be due August 1, 1985.
1. A late rate request shall not be accepted from an existing foster family agency after November 1, 1985.
 2. Foster family agencies which do not submit a rate request by November 1, 1985 shall not have a rate set for the new fiscal year and shall not receive AFDC-FC funds after February 1, 1986.
- (D) A complete rate request is due April 1.
1. Foster family agencies which do not submit a complete rate request by July 1 shall not have a rate set for the new fiscal year and shall not receive AFDC-FC funds after September 1, except as provided for in Section 11-403(f)(3).

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- (E) Penalties for submission of late rate requests are specified in Section 11-403(f)(2)(B).

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- (F) Exceptions to these due dates shall be as specified in Section 11-403(g).

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- (A) July 1 shall be the effective date for the rates when the rate request is submitted on time or late with good cause.
- (B) Effective dates of rates for foster family agencies which submit a late rate request without good cause shall be established as follows:
 - 1. If the rate request is submitted from one day to one month late, the effective date will be August 1.
 - 2. If the rate request is submitted from one month and one day to two months late, the effective date will be September 1.
 - 3. If the rate request is submitted two months and one day late or later, but before July 1, the effective date will be October 1.
 - 4. Where the new rate is lower than the old rate, the lower rate shall be set retroactively to July 1 and adjusted pursuant to Section 11-403 on overpayments.
- (C) Exceptions to the effective dates of rates shall be as specified in Section 11-403(g).

(3) Rate Reestablishment

- (A) A rate reestablishment is a process to reestablish a foster family agency program rate for the remainder of the fiscal year that could not be established in accordance with Section 11-403(f)(1) or was terminated for failure to submit a financial audit report as specified in Section 11-405.219. A program rate shall be reestablished when the Department determines that all applicable rate request requirements have been met.
 - 1. The effective date of the rate for a complete rate request submitted after July 1 shall be no earlier than September 1 or the date of the Department's written notification of reestablishment of the rate to the foster family agency, whichever is later.
 - 2. The rate shall be set, based on the lesser of:
 - (i) the provider's rate for the prior fiscal year, or
 - (ii) the Foster Family Agency Schedule of Rates for the current fiscal year.

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3. A foster family agency rate that is terminated pursuant to Section 11-405.219, shall not be reestablished until the non-profit corporation submits a financial audit report in accordance with Section 11-405.21.

- (i) Once the Department has determined that the provider has satisfactorily met the financial audit requirements as specified in Section 11-405.2, the effective date for the reestablishment of the rate shall be when the Department provides written notification to the foster family agency.

(g) Deviations from the Rate Setting Process

(1) New Foster Family Agency Providers

(A) A new foster family agency provider shall be one who:

1. Has not operated a foster family agency or group home program for AFDC-FC funded children in the fiscal year preceding that for which the rate is being set; or
2. Has operated a foster family agency in the fiscal year preceding that for which the rate is being set but did not accept AFDC-FC funded children during that fiscal year; and
3. Has not merely added a new program; increased the level of services provided; changed incorporation; reorganized; or changed name, location, ownership, or license.

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- (B) The rate for new foster family agency providers shall be determined in accordance with Section 11-403(a)(1).
 - (C) In order to establish a rate, new foster family agency providers shall submit to the Department a complete rate request in accordance with Section 11-403(f)(1)(B).
 - (D) Repealed by Manual Letter No. OPS-03-01, effective 2/13/03.
- (2) New Foster Family Agency Programs
- (A) A new foster family agency program shall be one which:
 - 1. Serves an entirely different population at an entirely different level of service than that currently served by the foster family agency's existing program(s); and
 - 2. Is either based in different certified family home(s) than the current program(s) operated by the foster family agency, or the current program(s) operated by the foster family agency is replaced by an entirely new program.
 - (B) Rates for new programs shall be set in accordance with Section 11-403(a)(1).
 - (C) Foster family agencies requesting a new program rate shall obtain and submit to the Department verification from the host county that:
 - 1. The provisions of Section 11-403(g)(2)(A) are met; and
 - 2. The need for the new program(s) is justified.
 - (D) Repealed by Manual Letter No. OPS-03-01, effective 2/13/03.
- (3) Program Expansions
- (A) All other changes which do not meet the requirements of 11-403(g)(1)(A) and 11-403(g)(2)(A) above shall be designated program expansions.
 - 1. Costs associated with these changes shall be incorporated into the rate request for the following year's rate-setting process.

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(h) Administrative Review Procedure

- (1) The administrative review procedure for foster family agencies shall be as specified in Section 11-430.

(i) State Audit Requirements

- (1) Audit requirements for foster family agencies shall be as specified in Section 11-405.1.

(j) Overpayments

- (1) Overpayment requirements for foster family agencies shall be as specified in Section 11-402.6. An overpayment shall be caused by, but is not limited to, the expenditure of AFDC-FC program funds on items not permissible as specified in Section 11-404.

(k) Accounting Requirements

- (1) Accounting requirements for foster family agencies shall be as specified in Section 11-402.84.

(l) Good Cause for Late Foster Family Agency Rate Request

- (1) A provider who is unable to submit a complete rate request by the due date shall be allowed to submit a written request for a 30-day extension based on good cause as defined in Section 11-400g.(1). The good cause request shall be postmarked within five calendar days of the rate request due date and shall contain the following:

- (A) A clear statement that the request is for a determination of good cause;
- (B) The specific reason(s) for submitting an untimely rate request;
- (C) The provider's name, address and telephone number;
- (D) The name, address and telephone number of the person to be notified regarding the determination of good cause; and
- (E) The name, location and program number of the affected program(s).

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- (2) Within ten calendar days of the postmarked date of a provider's request for a 30-day good cause extension, the Department shall either approve or deny the request and shall notify the provider in writing of the determination.
- (A) An approved request shall allow the provider to submit a complete rate request within 30 days of the postmarked date of the Department's notification letter. A complete rate request submitted within the 30-day time period shall have a rate effective date of July 1.
- (B) A complete rate request that is not submitted within the 30-day time period shall have a rate effective date established in accordance with the appropriate penalty contained in Section 11-403(f)(2)(B).
- (C) A denied request shall require the provider to submit a complete rate request prior to the first of the next calendar month to avoid imposition of additional late penalties. The effective date of the rate shall be set in accordance with the appropriate penalty contained in Section 11-403(f)(2)(B).

NOTE: Authority cited: Sections 10553, 10554, 11460(b), 11463, and 11466.21, Welfare and Institutions Code. Reference: Sections 11468, 11463, 11466.21, 11466.22, 11466.24, and 11468.2, Welfare and Institutions Code; Public Laws 98-502 and 104-156; Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; *Government Auditing Standards* of the Comptroller General of the United States (Yellow Book); Department of Health and Human Services, Administration for Children and Families letters dated April 19, 2001, February 22, 2002 and May 7, 2002; and Internal Revenue Code Section 4958.

11-404	USE OF FEDERAL AND STATE FOSTER CARE FUNDS	11-404
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- .1 Federal and State AFDC-FC program funds shall be used to meet the cost of providing care and supervision and its associated administrative costs, consistent with the paid rate, for AFDC-FC eligible children as specified in Sections 11-402.82 and 11-403(c).
- .2 Once the care and supervision needs of the children commensurate with the paid rate have been rendered, any unexpended AFDC-FC funds at the end of the program's fiscal year, may be retained by the non-profit corporation operating the group home and/or FFA program, regardless of the fiscal year for which they were received. When expended, these funds shall be used to provide activities that serve or benefit California foster care children, which include, but are not limited to, the following:
 - .21 AFDC-FC allowable costs of other group home and/or FFA programs operated by a non-profit corporation, as specified in Sections 11-402.82 or 11-403(c).
 - .22 Any child-related direct services which shall include, but are not limited to orthodontia, glasses, therapeutic services, recreation therapy, and after-care services, only to the extent that those services are not fully funded from any other governmental funding source and only to the extent that those activities benefit California foster care children.
 - .23 The costs of starting new programs or expanding existing programs, and the operational costs of existing programs provided that the majority of the population to be served by the program shall be California foster care children.
 - .24 The costs of providing pre and/or post emancipation services for California foster care children up to 21 years of age, as identified in either the case plan, individual needs and services plan, or the Transitional Independent Living Plan.
- .3 For the purposes of this section, the term "foster care children" shall include any foster care child or youth who is or has been placed in out-of-home care by a California child welfare services or probation placement agency, including children who are placed out-of-state pursuant to the Interstate Compact on the Placement of Children.

NOTE: Authority Cited: Section 11460, Welfare and Institutions Code. Reference: Section 11460, Welfare and Institutions Code and CFR 45 Part 74.

11-405	FISCAL AND FINANCIAL AUDITS	11-405
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.1 Fiscal Audits

- .11 Group home and foster family agency fiscal audits shall be performed by the Department, its agents, or an audit agency of the federal government.
- .111 The scope of the audits shall include, but not be limited to, compliance with all applicable federal and state laws, regulations, and instructions based on those laws and regulations in effect during the audit period.
- .112 Group home programs and foster family agencies shall maintain, at a minimum, the following documentation, as applicable, to support AFDC-FC program expenditures for a period of not less than five years:
- (a) Copies of all contracts and leases, time sheets/time studies, cancelled checks, payroll register/salary schedule, payroll taxes, DE 3DP Quarterly Contributions Return, IRS Form #1099-Miscellaneous Income, and cash receipts.
 - (b) Children's case files, and daily logs and notes of staff performing social work and mental health activities which verify that activities/services were provided to children in placement.

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- .113 Beginning January 1, 1994, unless otherwise specified in law, a fiscal audit will follow the field audit standards contained in the "Field Work Standards for Financial Audits" section of "Government Auditing Standards" (Rev. 1988) by the Comptroller General of the United States, United States General Accounting Office.

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- .114 Noncompliance with the "Field Work Standards for Financial Audits" section of "Government Auditing Standards" (Rev. 1988) by the Comptroller General of the United States, United States General Accounting Office, shall not preclude or bar the Department from sustaining or collecting actual overpayments, or otherwise invalidate an audit report.
- .12 Group home programs shall maintain all cost data related to the following categories for a period of not less than five years.
- .121 CCS.

11-405	FISCAL AND FINANCIAL AUDITS (Continued)	11-405
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- .122 Social Work Activities.
- .123 Food.
- .124 Shelter.
- .125 Buildings and equipment.
- .126 Utilities.
- .127 Vehicles and travel.
- .128 Child related.
- .129 Administration.
- .13 The Group Home Program Cost Report (SR 3), Group Home Program Payroll and Fringe Benefit Report (SR 4), and Total Program Cost Display (FCR 12FFA) are used to report the following payroll and fringe benefit data:
 - .131 Payroll.
 - .132 FICA.
 - .133 Unemployment coverage.
 - .134 Medical insurance expense.
 - .135 Retirement.
 - .136 Other payroll and fringe benefit costs.
 - .137 Contractor costs.

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.14 A provider shall be responsible for making available all requested records and documents as referenced in Sections 11-405.12 and .13 during fiscal audits.

.141 A provider's refusal to cooperate with the Department by not providing the requested records, documents, or allowing immediate access to the requested documents, records or facilities shall result in rate termination as specified in Sections 11-402.524, 11-402.525, and 11-402.526.

.2 Financial Audits

As a condition to receive an AFDC-FC rate, a non-profit corporation that operates a group home program and/or a foster family agency program that provides treatment services shall submit a financial audit report to the Department.

.21 Audit Report Requirements

To be accepted by the Department, a financial audit report shall meet the following requirements:

.211 The audit shall be conducted by a certified public accountant or a state-licensed public accountant.

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- .212 The accountant conducting the audit shall not have a direct or indirect relationship with the corporation which affects or could affect the accountant's independence, objectivity, or integrity, as defined in Rules 101 and 102 of the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct and the interpretations and ethics rulings under these rules.
- .213 The audit shall be conducted according to the *Government Auditing Standards* issued by the Comptroller General of the United States [Generally Accepted Government Auditing Standards (GAGAS)] and financial accounting standards applicable to entities organized and operated on a non-profit basis.
- (a) Beginning April 1, 2003, for those non-profit corporations that expend \$300,000 or more in combined federal funds for all of its programs and activities during the non-profit corporation's fiscal year, the audit must be conducted according to the standards contained in federal Office and Management Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. The non-profit corporation's financial audit report shall be submitted to the Department within the earlier of 30 days after receipt of the independent auditor's report or nine months after the end of the non-profit corporation's most recent fiscal year.
- (1) For purposes of this section, federal Foster Care funds shall be deemed expended when received by the non-profit corporation.
- (2) Corporations shall submit to the Department one copy of the complete OMB Circular A-133 report and audited cost data as specified in Section 11-405.214.
- (3) Notwithstanding Section 11-405.213(a), a non-profit corporation which operates a group home program and/or a foster family agency program that provides treatment services whose fiscal year began prior to April 1, 2003 shall submit a financial audit report for the non-profit corporation's most recent fiscal year in accordance with *Government Auditing Standards* or OMB Circular A-133 standards, within the time frame specified in Section 11-405.213(b).

11-405 FISCAL AND FINANCIAL AUDITS (Continued)**11-405**

- (b) For a non-profit corporation that expends less than \$300,000 in combined federal funds for all of its programs and activities during the non-profit corporation's fiscal year, the audit must be conducted according to *Government Auditing Standards* as specified in Section 11-405.213. The non-profit corporation's financial audit report shall be submitted to the Department within the earlier of 30 days after receipt of the independent auditor's report or six months after the end of the non-profit corporation's most recent fiscal year.
- .214 The audit shall include all of the programs and activities of the non-profit corporation which operates a group home and/or a foster family agency which provides treatment services and shall not be limited to those programs and activities funded in whole or in part by AFDC-FC funds. The audit shall also include audit procedures applied to the cost data reported on the SR 3, SR 4, and FCR 12FFA. The data reported by providers in the cost reports shall be consistent with the entity's fiscal year audit period as specified in Section 11-405.215. The audited cost data may be reported together with the audit of all the programs and activities or reported separately and referenced as an attachment.
 - (a) A non-profit corporation which operates a group home program and/or a foster family agency program that provides treatment services whose fiscal year began prior to April 1, 2003 shall not be required to submit audited cost data. These corporations shall submit unaudited cost data with the financial audit report.
- .215 The audit shall be conducted annually and shall cover the corporation's most recent fiscal year, as defined by the corporation, with the following exceptions:
 - (a) Notwithstanding Section 11-405.21, a non-profit corporation that has been incorporated fewer than 12 calendar months by the end of its first fiscal year in which it received AFDC-FC funds shall not be required to submit a financial audit report.
 - (b) If the corporation changes its fiscal year as permitted by the Internal Revenue Service, the audit conducted following the change shall cover all of the months since the last audit, even though this may include more than 12 months. If the audit period is greater than 12 months, the most recent 12 months of the audit period shall be presented separately in the audit report.

11-405 FISCAL AND FINANCIAL AUDITS (Continued)

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.216 Financial information shall be reported in a format consistent with generally accepted accounting principles as established by the Financial Accounting Standards Board, the *Government Auditing Standards* issued by the Comptroller General of the United States (GAGAS), and with federal OMB Circular A-133 as required in Section 11-405.21.

.217 A non-profit corporation that is unable to submit a timely audit report by the due date specified in Section 11-405.213 shall be allowed to submit a written request for determination of good cause as defined in Section 11-400g.(1) which shall be postmarked no later than the audit report due date.

(a) The request shall contain the following:

- (1) A clear statement specifying the request for determination of good cause for late submission of a financial audit report.
- (2) The specific reason(s) for late submission of a financial audit report.
- (3) The earliest date when a financial audit report can be submitted and the reason why it cannot be submitted earlier.
- (4) The provider's name, address and phone number.
- (5) The name, address and phone number of the person to be notified regarding the determination of good cause.
- (6) The name, location and program number of the affected program(s).

(b) Within 15 calendar days of receipt of the request for a determination of good cause, the Department shall make a determination of good cause and shall notify the non-profit corporation in writing of the determination.

- (1) When the Department determines that good cause exists for a late submission of the financial audit report, the Department shall notify the non-profit corporation of the revised due date.
- (2) When the Department determines that good cause does not exist for late submission of the financial audit report, the Department shall notify the non-profit corporation that it may be subject to rate termination for failure to submit a timely financial audit report as specified in Section 11-402.393.

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.218 A non-profit corporation that submits an audit report which does not meet the Department's requirements set out in Sections 11-405.211 through .216 will be granted 30 days to correct any deficiencies unless the Department determines that circumstances beyond the control of the provider exist to grant a longer period.

.219 A non-profit corporation that does not submit an acceptable audit report by the end of the period specified in Section 11-405.218 or fails to submit an audit report as specified in Sections 11-405.213(a) and (b) shall be subject to rate termination under Section 11-402.393.

.22 Financial Audit Cost Reimbursement

Corporations which operate foster family agencies providing treatment services and group home programs with a total licensed capacity of 12 or less may be eligible for reimbursement of the costs of annual financial audits on a sliding scale basis, as shown in Sections 11-405.223(a) and (b) below.

.221 Corporations which operate eligible programs may apply for financial assistance related to the costs of the annual financial audit by forwarding to the Department the financial audit report, the invoice for the cost of procuring the audit, documentary evidence that the invoice was paid, and any other relevant documents needed to validate the claim for reimbursement.

.222 The Department shall review and determine that the financial audit report meets the requirements set forth in Sections 11-405.21 prior to approval of reimbursement.

.223 Schedules for Audit Cost Reimbursement

(a) For corporations which operate a group home program or programs with a combined licensed capacity of 12 beds or less, the amount of reimbursement shall be based on the program with the lowest licensed capacity as shown below:

	Single GH Programs Capacity/RCL	Amount Reimbursed
Level I	1-6 beds	\$2,500 or 50% of actual cost (whichever is less)
	RCL 1-14	
	7-12 beds RCL 1-10	Same as above
Level II	7-12 beds RCL 11-14	\$1,500 or 50% of actual cost (whichever is less)

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- (b) For corporations which operate a foster family agency providing treatment services or programs in addition to a group home program or programs with a combined licensed capacity of 12 beds or less, the amount of reimbursement shall be based on gross annual revenues from all sources, as follows:

	FFAs and Multi-Program Corporations Gross Annual Revenues		Amount Reimbursed
Level I	Minimum	\$ 0	\$2,500 or 50 % of actual cost (whichever is less)
	Maximum	\$450,288	
Level II	Minimum	\$450,289	\$1,500 or 50 % of actual cost (whichever is less)
	Maximum	\$585,216	
Level III	Minimum	\$585,217	\$750 or 50 % of actual cost (whichever is less)
	Maximum	\$765,216	
Level IV	Minimum	\$765,217	None
	Maximum	None	

.23 Administrative Procedures for Recoupment

.231 Management Decision and Recoupment

- (a) For a financial audit report submitted as a condition for receiving a Foster Care program rate, the Department shall issue a management decision on audit findings within six months of receipt of the financial audit report. The management decision shall clearly state whether or not the audit finding is sustained, the reasons for the decision, and the action expected of the corporation to repay disallowed costs, make financial adjustments, or take other action.
- (b) The Department may issue a management decision upon completion of a fiscal audit if deemed necessary and appropriate. Any management decision issued as a result of a fiscal audit shall clearly describe each review finding and the action expected of the corporation to repay disallowed costs, make financial adjustments, or take other action.

11-405 FISCAL AND FINANCIAL AUDITS (Continued)**11-405**

- (c) The Department may recover those costs identified in a financial audit or fiscal audit as misuse or fraud involving AFDC-FC funds. The Department's decision on recoupment shall be based on a review of the audit findings, any responses from a non-profit corporation's management to the findings, including any actions taken to recover misused or fraudulently expended funds, and findings from any additional audits conducted by the Department or its designee. The Department shall provide written notice to the non-profit corporation of its determination in a management decision. The Department's determination of misuse or fraud and its decision on recoupment shall be final if the provider does not request a hearing within the prescribed time stated in Section 11-405.232.

.232 Hearing

The non-profit corporation may request a hearing of the Department's determination of misuse or fraud and its decision on recoupment no later than 30 days after the date the Department issues the management decision. The request for hearing shall identify each audit finding in dispute, and set forth the non-profit corporation's contentions for each disputed audit finding. The request for hearing shall include all supporting documentation that is relevant to the disputed audit findings. Within 60 days of the request for hearing, the Department shall conduct a hearing on the determination, in accordance with the hearing procedures set forth in Sections 11-430.5 through .69. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the Department. The hearing officer shall issue the proposed decision within 45 days of the close of the evidentiary report. The director shall adopt, reject or modify the proposed decision, or refer the matter back to the hearing officer for additional evidence or findings within 100 days of the issuance of the proposed decision. If the director takes no action on the proposed decision within the prescribed time, the proposed decision shall take effect by operation of law.

.233 Repayment Terms

The Department shall establish repayment terms in accordance with Section 11-402.66.

11-405 FISCAL AND FINANCIAL AUDITS (Continued)

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.234 Rate Termination

- (a) Pursuant to Section 11-402.393, the Department may terminate the rate of a non-profit corporation that is found to have committed misuse or fraud including, but not limited to the following circumstances:
- (1) Multiple occurrences of misuse, or
 - (2) Failure to pay on amounts determined by the Department to be misuse or fraud, or
 - (3) An officer or director of a non-profit corporation is convicted of fraud, embezzlement, deception, theft and/or material misrepresentation regarding the corporation's operation of its group home or foster family agency program.
- (b) Pursuant to Section 11-402.393, the Department may terminate the rate of a non-profit corporation that has failed to substantially comply with expected corrective actions as specified in a management decision letter.

- .24 Nothing in this section shall preclude counties from conducting site visits or from performing audits to verify compliance with the terms of any contract or agreement between a county placement agency and a group home and/or foster family agency relative to children in care. Such activities shall not duplicate audits conducted in accordance with OMB Circular A-133.

NOTE: Authority cited: Sections 10553, 10554, 11460(b), and 11466.21, Welfare and Institutions Code. Reference: Sections 11466.21 and 11466.22, Welfare and Institutions Code; Public Laws 98-502 and 104-156; Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; *Government Auditing Standards* of the Comptroller General of the United States (Yellow Book); and Department of Health and Human Services, Administration for Children and Families letters dated April 19, 2001, February 22, 2002 and May 7, 2002.

11-406 DEFINITIONS - FORMS**11-406**

The following forms are incorporated by reference:

- (a) (Reserved)
- (b) (Reserved)
- (c) (Reserved)
- (d) (Reserved)
- (e) (Reserved)
- (f) (Reserved)
- (g)
 - (1) Group Home Program Cost Report (SR 3, Rev. 12/02) – This form is used by a non-profit corporation to report cost information of a specific group home program.
 - (2) Group Home Program Days of Care Schedule (SR 5, Rev. 10/99) – This form is used by a non-profit corporation to report historical or projected monthly data on the occupancy and licensed capacity of a specific group home program.
 - (3) Group Home Program Payroll and Fringe Benefit Report (SR 4, Rev. 12/02) – This form is used by a non-profit corporation to capture historical or projected monthly data on payroll and fringe benefit costs for a specific group home program.
 - (4) Group Home Program Rate Application (SR 1, Rev. 1/00) – This is the form used by a non-profit corporation to apply for a group home program rate.
- (h) (Reserved)
- (i) (Reserved)
- (j) (Reserved)
- (k) (Reserved)
- (l) (Reserved)
- (m) (Reserved)

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- (n) (Reserved)
- (o) (Reserved)
- (p) (1) Program Classification Report (SR 2, Rev. 6/99) – This form is used by a non-profit corporation to capture historical and projected monthly data, which is used to establish a rate classification level (RCL) for a specific group home program.
- (q) (Reserved)
- (r) (Reserved)
- (s) (Reserved)
- (t) (1) Total Program Cost Display (FCR 12FFA, Rev. 12/02) – This form is used by a non-profit Foster Family Agency corporations to collect cost information for a specific program.
- (u) (Reserved)
- (v) (Reserved)
- (w) (Reserved)
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions. Reference: Section 15658, Welfare and Institutions Code.